

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 01-80361

vs.

HON. GEORGE CARAM STEEH

DANIEL TYRONE MCNEIL,

Defendant.

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ORDER DENYING MOTION FOR RECONSIDERATION (# 256)

On September 14, 2012, the court denied *pro se* federal prisoner Daniel McNeil's motion to modify sentence made under 18 U.S.C. § 3582(c)(2).

McNeil was convicted by a jury in 2001 of bank robbery, in violation of 18 U.S.C. §§ 2 and 2113; carrying or brandishing a firearm during a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(i) & (ii); and possession of a destructive device in furtherance of a crime of violence, in violation of 18 U.S.C. §§ 2 and 924(c)(1)(A) & (B)(ii). After two appeals, McNeil was ultimately sentenced to sixty months of imprisonment for the bank robbery and a consecutive term of thirty years for the other two merged offenses. The court denied McNeil's subsequent motion filed under 28 U.S.C. § 2255 as meritless, and both this court and the Sixth Circuit declined to grant McNeil a certificate of appealability.

McNeil has filed a request that the court reconsider the denial of his motion to modify sentence. He now asserts that pursuant to § 924(c)(1)(A)(ii), the appropriate

sentence for his firearm offense was seven years, and that his counsel's "failure to object to the 30 year sentence constituted a deficient performance."

McNeil's request for "reconsideration" contains new assertions about both a criminal statute and the performance of his counsel, not the subject of a motion brought under § 3582(c)(2). Nonetheless, the court notes that McNeil's sentence has been reviewed on numerous occasions. Although initially this court sentenced him to sixty months of imprisonment on the bank robbery count, seven years of imprisonment on the firearm count, and thirty years of imprisonment on the possession of a destructive device count, it was later instructed by the Sixth Circuit to merge the seven-year term with the thirty-year term. United States v. McNeil, 106 F. App'x 294 (6th Cir. 2004). After a Booker remand, the same sentence was imposed, and later affirmed by the Sixth Circuit. United States v. McNeil, 06-1506 (6th Cir. Apr. 17, 2007).

McNeil's contentions are confusing at best. He seems to be arguing that in addition to the sentence for bank robbery he should have been sentenced only on the firearm charge, for a period of seven years, and not on the destructive device charge, which carried the longer sentence, despite his conviction by a jury on the three charges. McNeil's new "arguments" have no place here and, in any event, have no merit.

McNeil's motion for reconsideration is **DENIED**.

IT IS SO ORDERED.

Dated: March 27, 2013

s/George Caram Steeh

GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 27, 2013, by electronic and/or ordinary mail and also on Daniel T. McNeil #29457-039 (Bluegrass Unit) Federal Medical Center, P. O. Box 14500, Lexington, KY 40512.

s/Barbara Radke
Deputy Clerk